

## **NOTICE OF PROPOSED ACTION**

### **TITLE 11. DEPARTMENT OF JUSTICE**

NOTICE IS HEREBY GIVEN that the Department of Justice (Department) proposes to add permanent regulations to create, pursuant to Government Code section 12598, the administrative review process consistent with Chapter 4.5 (commencing with 11400) of Part 1 of Division 3 of Title 2 of the Government Code necessary to refuse to register, or to revoke or suspend the registration of charitable trustees and fundraising professionals for violations of the Supervision of Trustees and Fundraisers for Charitable Purposes Act (Government Code section 12580 et seq.).

### **PUBLIC COMMENT PERIOD**

The Department will accept written comments presenting statements, arguments or contentions relevant to the proposed regulations for a period of 45 days from the date of publication of this Notice of Proposed Action. The Department will not consider any comments which are not received by 5 p.m. on February 19, 2007. No later than 15 days prior to the close of this written comment period, any interested person, or his or her duly authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Written comments or requests for a public hearing should be addressed to Deputy Attorney General John M. Appelbaum, Department of Justice, Office of the Attorney General, P.O. Box 944255, Sacramento, California, 94244-2550.

### **AUTHORITY AND REFERENCE**

The proposed regulations add sections 999.6 - 999.8 to Chapter 15 of Title 11, Division 1 of the California Code of Regulations, under the authority of Government Code section 12598, which provides for the Attorney General's right to refuse to register, or to revoke or suspend the

registration of charitable trustees and fundraising professionals required to register with, and report to the Attorney General. The new sections will provide for an administrative review process when the Attorney General exercises his authority to refuse to register, or to suspend or revoke registration, consistent with the provisions of Chapter 4.5 (commencing with 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

In 2000, the Legislature added subdivision (e) to Government Code section 12598, giving the Attorney General authority to refuse to register, or to revoke or suspend the registration of charitable trustees and fundraising professionals required to register with, and report to him, whenever the Attorney General finds that the entity is or has been violating the provision of the Supervision of Trustees and Fundraisers or Charitable Purposes Act, Chapter 6 (commencing with section 12580) of Title 2 of Division 3 of the Government Code. All actions taken regarding registration status are subject to the rights set forth in Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code. The proposed regulations set forth the Attorney General's administrative review process for taking action on registration status, consistent with the procedural administrative adjudication procedures under the Administrative Procedures Act, commencing with Government Code section 11400.

### **DISCLOSURES REGARDING THE REGULATIONS**

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None

Other non-discretionary cost or savings imposed upon local agencies: None.

Cost or savings to any state agency. There will be some costs to the Attorney General associated with administrative action taken regarding registration status. These costs are not a mandate and are not reimbursable as these regulations do not require a new program or an increased level of service in an existing program. There will also be some increase in registration revenue as delinquent registrants comply with the registration and reporting requirements.

Cost or savings in federal funding to the state: None.

Cost impact on private persons or directly affected businesses: This regulation enforces existing law and gives affected charitable trustees and fundraising professionals the right to contest registration actions.

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other States: None. The proposed regulations only give affected charitable trustees and fundraising professionals the right to contest actions taken regarding registration status.

Effect on small businesses: None. The proposed regulations only give affected charitable trustees and fundraising professionals the right to contest actions taken regarding registration status.

Significant effect on housing costs: None.

In accordance with Government Code section 11346.3, the DOJ has assessed whether and to what extent adoption of the regulations will affect the following:

(a) The creation or elimination of jobs within the State of California: None.

(b) The creation of new businesses or the elimination or expansion of existing businesses with the State of California: None.

### **STATEMENT OF REASONS AND INFORMATION**

The Department has prepared an initial statement of the reasons for the proposed action and has available all of the information upon which the proposal is based.

### **TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS**

Copies of the exact language of the proposed regulations, the initial statement of reasons and other information, if any, may be obtained upon request from the Department of Justice, Office of the Attorney General, 1300 I Street, Sacramento, CA 94244-2550, Attn: Deputy Attorney General John M. Appelbaum, or by telephoning the contact person listed below.

### **CONTACT PERSON**

General or substantive inquiries concerning the regulatory actions should be directed to Deputy Attorney General John M. Appelbaum at the above address or at (916) 445-2389. The backup contact person to whom general inquiries may be directed is Sandy Blazak, Associate Governmental Program Analyst, who may be contacted at the above address or at (916) 327-7882. The backup contact person to whom substantive inquiries may be directed is Supervising Deputy Attorney General Kelvin Gong who may be contacted at 455 Golden Gate Avenue, Suite 11000, San Francisco, California, 94102-7004 or at (415) 703-5510.

### **PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS**

Interested persons are invited to submit written comments on the adoption of the regulations. A public comment period is provided from January 5, 2007, through February 19, 2007. Filing of written statements will be accepted at the Department of Justice, Office of the Attorney General (Attention: John M. Appelbaum, Deputy Attorney General), 1300 I Street,

Sacramento, CA 95814, or by mail addressed to P.O. Box 944255, Sacramento, CA 94244-2550, until the close of business 5:00 p.m. on February 19, 2007. The DOJ will not consider written comments received after this date.

### **PROPOSED REVISIONS, FINAL ADOPTION OF REGULATIONS**

Following the close of the written comment period, the Department may adopt, as final, the regulations as described in this Notice and Informative Digest. Copies of the regulations, as finally adopted, will be sent to all persons who have requested copies by filing a written request with the contact person identified above. If, as a result of public comments, significant or substantial changes to the proposed regulations are deemed appropriate, copies of the proposed changes will be sent to all persons who previously requested copies, all persons who submitted written comments during the comment period, all persons who submitted oral or written comments at a public hearing, if one is held, and those who have requested copies of information regarding the regulations.

Thereafter, the Department will accept written comments, argument, evidence and the like for a period of 15 days after the date upon which changes were made available. If adopted, the regulations will appear in the California Code of Regulations, Title 11, Division 1, Chapter 15, sections 999.6 - 999.8.

The Department must determine that no reasonable alternative considered by it or that has otherwise been identified or brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## **AVAILABILITY OF MATERIALS ON THE INTERNET**

The Notice of Proposed Action, the Initial Statement of Reasons, the Final Statement of Reasons, the text of the proposed regulations, the date a rulemaking action is filed with the Secretary of State, and the effective date of the rulemaking action will all be posted on, and may be downloaded from, the website of the Charitable Trusts Section of the Office of the Attorney General in the DOJ (<http://ag.ca.gov/charities>).

Note: Authority cited: Section 12598(e), Government Code. Reference: Sections 11400, et seq. and 11500, et seq., Government Code.